

CALIFORNIA ENERGY COMMISSION1518 NINTH STREET
SACRAMENTO, CA 95814-5512

**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

**DOCKET
06-AFC-10C**

DATE July 30 2009RECD. July 30 2009**In the Matter of:****STARWOOD POWER PROJECT****) Docket No. 06-AFC-10C****STARWOOD POWER-MIDWAY,
LLC****) Order No. 09-729-4**
**) ORDER APPROVING PETITION TO
) MODIFY COMMUNITY NOISE SURVEY
) DURATION AND MONITORING SITE**

On February 26, 2009, Starwood Power-Midway, LLC, the owner/operator of the Starwood Power Project, submitted a petition requesting to modify the duration and one monitoring location for the Community Noise Survey required by Condition of Certification NOISE-4. The modification will allow the project owner to conduct a noise survey during the quietest hours of the nighttime over a period of four continuous hours. The modification also allows the noise survey to be conducted from a location 400 feet from the project to replace a residence 1,300 feet from the site that is blocked by a barn that acts as a sound barrier. As required by NOISE-4, the survey shall also be conducted from a residence 1,600 feet from the project site.

STAFF RECOMMENDATION

Energy Commission staff reviewed the petition and finds that it complies with the requirements of Title 20, Section 1769(a) of the California Code of Regulations and recommends approval of Starwood Power-Midway, LLC, petition to modify the Starwood Power Project and amend Condition of Certification NOISE-4.

ENERGY COMMISSION FINDINGS

Based on staff's analysis, the Energy Commission concludes that the proposed changes will not result in any significant impact to public health and safety, or the environment. The Energy Commission finds that:

- The petition meets all the filing criteria of Title 20, section 1769(a) of the California Code of Regulations concerning post-certification project modifications;
- The modification will not change the findings in the Energy Commission's Final Decision pursuant to Title 20, section 1755;
- The project will remain in compliance with all applicable laws, ordinances, regulations, and standards, subject to the provisions of Public Resources Code section 25525;
- The Change will be beneficial to the public by demonstrating compliance with the Fresno County Noise Code and to the project owner, who would be extremely unlikely to ever

operate the peaking plant continuously for 25 hours as required by the Commission Decision for the Starwood project, at a cost of approximately \$92,000.

- The change is based on information that was not available to the parties prior to Energy Commission certification. Since the license was issued, it has been determined that because one of the monitoring locations has no direct line of sight to the project, it would be exposed to less project operation noise, and therefore noise measurements taken at that location may not accurately reflect noise from the project.
- NOISE-4, as written, contains a provision allowing the use of a monitoring location, acceptable to the CPM, closer to the project (e.g., 400 feet from the plant boundary).

CONCLUSION AND ORDER

The California Energy Commission hereby adopts Staff's recommendations and approves the following changes to the Commission Decision for the Starwood Power Project. New language is shown as **bold and underlined**, and deleted language is shown in ~~strikeout~~.

CONDITIONS OF CERTIFICATION

NOISE-4 The project design and implementation shall include appropriate noise mitigation measures adequate to ensure that operation of the project will not cause noise levels due to plant operation plus ambient, during the four quietest consecutive hours of the nighttime, to exceed an average of 45 dBA L₅₀ as measured near monitoring locations ML2 (approximately 1,600 feet west of the center of the project site) and ~~ML3 (43405 West Panoche Road)~~ **as measured near a location 400 feet from the project site (as shown in Noise Figure 1).**

No new pure-tone components may be caused by the project. No single piece of equipment shall be allowed to stand out as a source of noise that draws legitimate complaints.

- When the project first achieves a sustained output of 90 percent or greater of rated capacity, the project owner shall conduct a ~~254~~-hour community noise survey at monitoring location ML2 or at a closer location acceptable to the CPM. This survey during power plant operation shall also include measurement of one-third octave band sound pressure levels to ensure that no new pure-tone noise components have been caused by the project.

During ~~the period of~~ this survey, the project owner shall **also** conduct a ~~short-term 4-hour noise survey of noise at monitoring location~~ **a location 400 feet from the project site (as shown in Noise Figure 1)** ~~ML3, or at a closer location acceptable to the CPM.~~

The ~~short-term above~~ noise measurements shall be conducted during ~~every hour of~~ **four consecutive hours within the** nighttime ~~period~~ hours, from 10 p.m. to 7 a.m., ~~during the period of the survey.~~

- The measurement of power plant noise for the purposes of demonstrating compliance with this condition of certification may alternatively be made at a location, acceptable to the CPM, closer to the plant (e.g., 400 feet from the plant boundary) and this measured level then mathematically extrapolated to determine the plant noise contribution at the affected residence. The character of the plant noise shall be evaluated at the affected receptor locations to determine the presence of pure tones or other dominant sources of plant noise.
- If the results from the above noise survey indicate that the power plant noise level plus ambient (L_{50}) at the affected receptor sites exceeds the above value during the above specified time periods, mitigation measures shall be implemented to reduce noise to a level of compliance with this limit.
- If the results from the noise survey indicate that pure tones are present, mitigation measures shall be implemented to eliminate the pure tones.

Verification: The survey shall take place within ~~30~~60 days of the project first achieving a sustained output of 90 percent or greater of rated capacity. Within 15 days after completing the survey, the project owner shall submit a summary report of the survey to the CPM. Included in the survey report shall be a description of any additional mitigation measures necessary to achieve compliance with the above-listed noise limit, and a schedule, subject to CPM approval, for implementing these measures. When these measures are in place, the project owner shall repeat the noise survey.

Within 15 days of completion of the new survey, the project owner shall submit to the CPM a summary report of this new noise survey, performed as described above and showing compliance with this condition.

IT IS SO ORDERED.

Date: July 29, 2009

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION



KAREN DOUGLAS
Chairman